WAHGOSHIG FIRST NATION
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March 10, 2015

MAIL ROOM
SALLE DE COURIER
2015 MAR 16 P 1:44
NEB/ONE

Secretary
National Energy Board
517 Tenth Ave., S.W.
Calgary, AB
T2R 0A8

Re: Trans Canada Gas Mainline Integrity Digs – Outstanding Concerns and Issues

Dear Secretary,

I am writing to you to address an issue of serious concern to my community and which requires your immediate attention; the protection if my community's history cultural heritage and natural environment from Trans Canada operations and maintenance activities and "Integrity Digs". Our people have lived in these lands since time immemorial and our stories, histories, livelihood and cultural heritage are intertwined with the land in our traditional territories.

Trans Canada Gas operates the Canadian Mainline natural gas pipeline system that crosses Wahgoshig First Nation's traditional territory. Trans Canada gas has recently undertaken significant Integrity Dig work in the area of Long Lac, Ontario and I understand that additional Integrity Digs will happen in the near future. I am deeply concerned that Trans Canada may be undertaking this activity in my First Nation's traditional territory or have plans to imminently do so.

Integrity Digs and other operations and maintenance work require soil disturbance on the existing Canadian Mainline natural gas line Right of Way. Integrity Digs also commonly require temporary construction infrastructure including temporary workspaces, temporary roadways, stockpile sites, soil piles, laydown areas, and temporary fencing. All of these activities can damage or destroy cultural heritage resources or have negative impacts on the natural environment in our traditional territory.

We have been made aware of correspondence between a consultant who we regularly work with and Trans Canada on the issue of integrity digs along the Trans Canada Mainline. This consultant received

the following reply from Trans Canada on December 2, 2014, with regard to cultural heritage concerns (highlights mine):

"Regarding archaeology, because the existing right-of-way has been previously disturbed, **archaeological investigations are not required prior to conducting integrity digs.** Where EEPL requires the use new lands off of the existing right-of-way for access or temporary workspace, and there is potential for disturbance to archaeological resources, some additional desktop and/or field investigations may be required, and TCPL will seek appropriate permits/archeological clearance. TCPL also has an Environmental Protection Plan for Conversion, which includes a "Heritage Resource Discovery Contingency Plan", which describes **measures that would be taken if a heritage resource is discovered during construction.**

Trans Canada's approach is not consistent with Ontario Ministry of Tourism, Culture and Sport (MTCS) guidelines for archaeological assessments. Wahgoshig requires archaeological studies be conducted on all work that may result in soil disturbance, and we must be provided the opportunity to review and comment on site specific environmental management plans for such work. Integrity Digs routinely require excavations far beyond the original pipeline trench into undisturbed soil. To the best of my knowledge, and according to experts we have spoken with, no archaeological assessments have been done for the length of the Canadian Mainline pipeline with the proposed Energy East project. Without information about the type and scope of cultural heritage resources likely to be present, there is a very high likelihood that Integrity Digs will damage or destroy cultural heritage resources important to my First Nation.

MTCS is aware of the potential harm that integrity digs and pipeline operations and maintenance work can cause to archaeological and cultural heritage sites. For Enbridge's Line 9 pipeline project, MTCS insisted on imposing standards for Enbridge to meet in terms of archaeological study and monitoring. Those standards include Stage 1 and 2 archaeological assessment (to current standards) for all areas impacted. There is no reason that those same standards should not apply to Trans Canada in our traditional territory, and indeed, higher standards are required in these circumstances.

The Line 9 project is taking place in southern Ontario, where archaeological study has historically been more prevalent. In northern Ontario, comparatively little archaeological study has been conducted. All operations and maintenance work on the Canadian Mainline in Ontario where soil can be disturbed requires not only the adoption of the archaeological study and monitoring standards that Ontario is requiring Enbridge to follow on the Line 9 project, but also further protections and involvement of First Nations in the process. The participation of First Nations is necessary for the development of any protocol between Ontario, the National Energy Board and Trans Canada.

Northern Ontario First Nations have been involved in numerous conflicts with the Crown over resource development project in which the Crown and proponents have ignored and trampled First Nations cultural heritage. For example, recently, Wahgoshig successfully brought an injunction to stop a proponent from drilling in its traditional territory. Our victory was largely due to concerns over

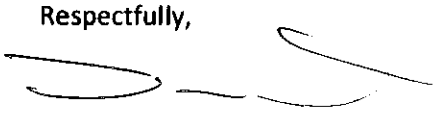
archaeological and cultural heritage potential, going unaddressed and ignored. The National Energy Board and Ontario can go a long way to avoiding such conflicts in this case by ensuring that adequate standards are in place and binding on Trans Canada for the Canadian Mainline and all future Trans Canada operations, including EEPL, in our traditional territory.

As noted, we understand that Trans Canada may be conducting Integrity Digs in the immediate future, and, if it does so, will be putting our rights, archaeological sites, our cultural heritage and our natural environment in jeopardy. Until these matters are resolved, my First Nation requires the following:

1. Under National Energy Board regulations covering operations and maintenance activities on pipelines under the National Energy Board Act, the Board and my First Nation must receive notification for all operations and maintenance work in our traditional territory outlining a complete record of consultation that has taken place in my First Nation;
2. Archaeological assessments for all operations and maintenance activities where soil disturbance is likely;
3. The opportunity to be consulted on how archeological assessments are to be conducted
4. The opportunity to review and provide comments on Stage 1 archeological assessments, with recommendations for Stage 2 or further assessment work;
5. The opportunity to review and provide comments on environmental protection plans or similar reports before work begins;
6. The opportunity to field archaeological monitors during all Stage 2 or further archaeological assessment work;
7. The opportunity to field environmental monitors and archaeological monitors during all operations and maintenance work where soil disturbance may occur.

Until my First Nation is satisfied that such measure are in place, my First Nation will continue to have unresolved 3rd party concerns related to all Trans Canada operations and maintenance activities in our traditional territory.

Respectfully,



Chief David Babin